

**REMARKS**

Claims 1, 2, 7, 11-17, 19-21, 23 and 81-104 were presented for examination. The Examiner rejected claims 1, 19-20 23, and 86 under 35 U.S.C. 102(b) as anticipated by Final Fantasy Anthology: Collector's Edition as described on a number of websites. The Examiner rejected claim 23 under 35 U.S.C. 103(a) as unpatentable over Final Fantasy in view of [www.samgoody.com](http://www.samgoody.com). The Examiner rejected claims 11-17, 81, and 83 under 35 U.S.C. 103(a) as unpatentable over Final Fantasy in view of Karaoke Revolution in further view of Karaoke Revolution FAQs (<http://www.gamefaqs.com/console/ps2/file/914993/28658>). The Examiner rejected claims 84-85 under 35 U.S.C. 103(a) as unpatentable over Final Fantasy in view of Karaoke Revolution further in view of one of ordinary skill. The Examiner rejected claims 87-89 and 95-104 under 35 U.S.C. 103(a) as unpatentable over Karaoke Revolution in further view of XBOX Live Launch Center. The Examiner rejected claims 90-92 under 35 U.S.C. 103(a) as unpatentable over Karaoke Revolution in view of one of ordinary skill. The Examiner rejected claims 2 and 93 under 35 U.S.C. 103(a) as unpatentable over Karaoke Revolution in view of Dance Dance Revolution and in further view of Amplitude. The Examiner rejected claims 7 and 94 under 35 U.S.C. 103(a) as unpatentable over Karaoke Revolution in view of Dance Dance Revolution and in further view of U.S. Patent 6,514,083 (Kumar). No claims are hereby amended, no new matter has been added.

**Rejection of independent claim 1**

The Examiner rejected claim 1 under 35 U.S.C. 102(b) as anticipated by the Final Fantasy Anthology: Collector's Edition. Applicant respectfully submits that Final Fantasy Anthology: Collector's Edition as described in the cited references does not teach or suggest "offering for sale, as a single unit, an article of manufacture which embodies the quantum of music content in a music playback format and the computer-readable medium embodying the portion of the created video game [based on the music content]" as required by independent claim 1. As stated in the cited walkthrough, Final Fantasy VI includes an "Opera Scene" in which a player must successfully choose correct opera lyrics in a series of dialog screens while the opera music plays, which the Examiner asserts meets the limitation of "creating a portion of a video game based on a quantum of music content." (Office Action, p. 2) The cited

Collector's Edition bundles this Final Fantasy game along with a music CD containing "many of the best tracks" from the soundtrack of the game. However, Applicant respectfully submit that the references cited by the Examiner fail to mention whether the music from the "Opera Scene" is actually included in the bundled soundtrack. Applicant discovered at least one reference that indicates that the music from the "Opera Scene"—"Aria di Mezzo Caratter" was not included in the bundled soundtrack. (See [http://en.wikipedia.org/wiki/Final\\_fantasy\\_anthology](http://en.wikipedia.org/wiki/Final_fantasy_anthology) and [http://en.wikipedia.org/wiki/Music\\_of\\_Final\\_Fantasy\\_VI](http://en.wikipedia.org/wiki/Music_of_Final_Fantasy_VI)). Thus, even assuming that the "Opera Scene" comprises a portion of a game based on a quantum of music content, the references cited fail to include any suggestion that the musical content was ever bundled with the game in a music playback format. The present claims are not directed simply to the idea of selling a game and a game soundtrack together--applicant is aware of, and has cited to the Patent Office, a number of games which have been sold along with a soundtrack. Rather, the present claims are directed to basing a portion of a game on a piece of music, and then selling both the portion of the game and the music together. The cited references fail to teach or suggest such an "offering for sale, as a single unit, an article of manufacture which embodies the quantum of music content in a music playback format and the computer-readable medium embodying the portion of the created video game" as required by independent claim 1.

#### **Rejection of dependent claims 2, 7, 11-17, 19-21, 23 and 81-86**

The Examiner rejected claims 2, 7, 11-17, 19-21, 23 and 81-86, which depend from claim 1, over various combinations of the Final Fantasy Anthology: Collectors Edition, [www.samgoody.com](http://www.samgoody.com), Karaoke Revolution, Dance Dance Revolution, Amplitude, and Kumar. As argued above, the Final Fantasy Anthology: Collectors Edition does not teach or suggest "offering for sale, as a single unit, an article of manufacture which embodies the quantum of music content in a music playback format and the computer-readable medium embodying the portion of the created video game" as required by claim 1, from which each of these claims depends. Applicants respectfully submit that none of the other cited references cure this deficiency, as none describe bundling any game with a soundtrack in a music playback format. Applicant further disagrees with the Examiner's assertion that "It would have been obvious to one of ordinary skill to include a compilation of [the Karaoke Revolution songs available in training mode] on a single CD with the game as a study aid for the player away from the gaming

system.” The Examiner fails to mention the many disincentives one of ordinary skill might have for including a CD soundtrack, including the increased cost of the game, the difficulty of obtaining the necessary music licenses, and the likelihood that including such a CD may be forcing buyers to purchase tracks they already own. Given these potential disincentives, plus the fact that many times a player will want to “study” will be when the game is readily available for subsequent practice (and thus a separate CD may be unnecessary), Applicant submits it would not be obvious to one of ordinary skill in the art, in view of the cited references, to “offer[] for sale, as a single unit, an article of manufacture which embodies the quantum of music content in a music playback format and the computer-readable medium embodying the portion of the created video game” as required by dependent claims 2, 7, 11-17, 19-21, 23 and 81-86.

#### **Rejection of Independent Claim 87**

The Examiner rejected claim 87 under 35 U.S.C. 103(a) as unpatentable over Karaoke Revolution in further view of XBOX Live Launch Center. Applicant respectfully submit that neither of the cited references teach or suggest “offering, via an online store, as a single unit the quantum of music content in a music playback format and the portion of the created video game.” The Examiner cites the “Training” mode of Karaoke Revolution as providing a means within the game for a player to hear a song without being scored or rated (Office Action, p. 5). However, this does not comprise a “music playback format” within the meaning of claim 87. A “music playback format” requires that the music be playable outside the context of the game, such as, for example, a format playable by a standard CD or DVD player. (See e.g. Application, p 16). Neither the Karaoke Revolution reference nor XBOX Live make any mention of downloading music content from the game in a separately playable format. As argued above including such separate content would not have been obvious to one of ordinary skill in the art due to the licensing and practical difficulties. Thus neither of the cited references teach or suggest “offering, via an online store, as a single unit the quantum of music content in a music playback format and the portion of the created video game.”

#### **Rejection of Dependent Claims 88-104**

The Examiner rejected claims 88-104, all of which depend from claim 87, over various combinations of Final Fantasy Anthology: Collectors Edition, [www.samgoody.com](http://www.samgoody.com), Karaoke Revolution, Dance Dance Revolution, XBOX Live Launch Center, Amplitude, and Kumar. As argued above, none of these cited references describe any bundling of music content in a music playback format along with a game based on the music content. Thus none of the cited references teach or suggest “offering, via an online store, as a single unit the quantum of music content in a music playback format and the portion of the created video game” as required by claims 88-104.

**CONCLUSION**

In view of the above remarks and amendments, Applicant believes the pending application is in condition for allowance.

Please charge any additional necessary fees or credit any overpayments to Deposit Account No. 03-1721.

Respectfully submitted,  
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